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AO 91 (Rev. 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

United States of America  
v.  
Brian M. Sze  
14015 1ST Avenue NE  
Seattle, WA 98125

*Defendant*

Case No. 2:15-mj-619

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 03/11/2015 in the county of Delaware in the Southern District of Ohio, the defendant violated 18 U. S. C. § 2251(a), an offense described as follows:

Use of a minor engaged in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, using materials that have been mailed, shipped or transported in or affecting interstate or foreign commerce, specifically a cellular phone and flash drive that were manufactured outside the state of Ohio.

This criminal complaint is based on these facts:

SEE AFFIDAVIT ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

☒ Continued on the attached sheet.

  
Complainant's signature

Justin B. Myers, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 10/01/2015

City and state: Columbus, Ohio

  
Judge's signature

Norah McCann King, United States Magistrate Judge  
Printed name and title

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

**IN THE MATTER OF THE CRIMINAL  
COMPLAINT OF:**

**Brian M. Sze  
14015 1ST Avenue NE  
Seattle, WA 98125**

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) **Case No.**  
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**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, U.S. Homeland Security Investigations (HSI) Special Agent (SA) Justin Myers, being first duly sworn, hereby depose and state as follows:

1. I, HSI SA Justin Myers, hereafter referred to as your affiant, am assigned to HSI Columbus, Ohio. Your affiant has been employed by HSI since June 2004. Your affiant gained experience through a Bachelor of Arts Degree in Criminology, a Master's Degree in Forensic Science, completion of the Federal Criminal Investigator Training Program (CITP), and completion of the HSI Investigations Academy. During CITP and the HSI Academy training, your affiant was instructed in all phases of criminal investigation such as: Criminal Law, Search and Seizure, Field Enforcement Techniques, Firearms Proficiency, and Interviewing and Evidence. During September 2006, your affiant received a certificate of training from the Federal Bureau of Investigation to conduct undercover Internet investigations involving child sexual exploitation. During March 2007, your affiant received a certificate of training from the Wyoming Internet Crimes Against Children Task Force to conduct Peer-to-Peer related undercover Internet investigations involving child sexual exploitation. Your affiant is responsible for enforcing federal criminal statutes involving, but not limited to, child exploitation violations, pursuant to Title 18 USC § 2251.

2. Your affiant submits this affidavit in support of a criminal complaint and arrest warrant for Brian M. SZE for violation(s) of Title 18 United States Code (U.S.C.) § 2251(a) – Production of Child Pornography. Since this affidavit is being submitted for the limited purpose of securing an arrest warrant and criminal complaint, your affiant did not include each and every fact known concerning this investigation. This affidavit is based upon your affiant's first-hand knowledge as well as conversations and coordinated efforts with other law enforcement agents. Your affiant did not withhold any information or evidence that would negate probable cause. Your affiant set forth only the facts that are believed to be necessary to establish probable cause that Brian M. SZE committed the violations listed above.

3. On July 27, 2015, the Franklin County, Ohio Internet Crimes Against Children Task Force received a referral regarding a child, under the age of eighteen, who was receiving inappropriate sexually-oriented text messages and emails from an adult teacher, Brian SZE. The child's father told investigators that the child's Apple MacBook laptop computer and Apple iPhone had been taken from the child, and while reviewing the laptop computer, the child's father found multiple text messages and emails from SZE. The child's father turned the child's laptop computer and iPhone over to investigators and provided consent for investigators to forensically examine the

items. The child's father also brought in a printed copy of the "imessages" that the father had found on the laptop computer, but which were no longer on the mobile phone.

4. The child's parents informed investigators that they believed that there had been sexual conduct between the child and SZE, based on the "imessages" that were found. According to the parents, they had not yet asked the child about any sexual conduct with SZE. The parents also informed law enforcement that SZE had tutored the child on specific dates between April of 2014 and May of 2015.

5. Investigators conducted a full forensic examination of the child's two electronic devices. Text messages under Apple iMessages displayed numerous inappropriate text messages to the child, including:

- "we could do lunch /fun before then drop you off";
- "feeling like I wanna jack off (before mowing)";
- "kinda wish I had a buddy";
- "we can grab lunch and you know";
- "I'll text you tmrw when I'm omw...shower well tmrw bc well you know why haha";
- "...this gives us just enough time to grab lunch some place quick have some fun for the last time until August.";
- "...with that said, if you didn't do it already, can you save up today to Thursday late morning?"; and
- "...last time w that toy for 2 whole months haha".

6. One of contacts found in the child's mobile phone through the forensic exam was listed as "Bkeyriam" with the associated phone number 614-537-3405. The child's parents knew this to be SZE's phone number. Investigators sent a subpoena to AT&T Wireless for subscriber information associated with the phone number. The results from AT&T Wireless showed that the phone was assigned to Brian SZE from October 15, 2004 through August 02, 2015. The subpoena results further indicated that the mobile phone assigned to SZE's account was an iPhone 5S. Investigators confirmed with AT&T the week of September 21, 2015 that SZE's AT&T service was still active.

7. During later conversations with the child's family, law enforcement was informed that the child had revealed that the child had watched pornography and masturbated with SZE.

8. On September 18, 2015, the child was interviewed at the Franklin County Child Advocacy Center. During the interview, the child disclosed information regarding sexual acts perpetrated by SZE, including, but not limited to, watching pornography and masturbating together and inappropriate text messages regarding sexual activity. The child also described that during some tutoring sessions, SZE gave the child his mobile phone and instructed the child to go into his downstairs bathroom and record him/herself masturbating with the phone. This happened at SZE's residence of 664 Arden Street, Lewis Center (Delaware, County), Ohio, 43035. When finished, the child would give the phone back to SZE. SZE told the child that he stored the videos on a flash drive. The child thought the sexual encounters happened about 10 times, ending

sometime in May of 2015.

9. Investigators ran the address 664 Arden Street, Lewis Center, Ohio, 43035 through public internet websites and found that it was listed for sale on August 31, 2015. Pictures on websites associated with the real estate listing provided images of the different rooms in the residence, including the bathrooms.

10. Further investigation revealed that SZE had obtained employment at a school in Seattle, Washington, and checks of a law enforcement database provided SZE's new address as 14015 1st Avenue NE, Seattle, Washington 98125.

11. On September 29, 2015, HSI agents in Seattle, Washington executed a federal search warrant at SZE's new residence of 14015 1st Avenue NE, Seattle, Washington 98125. They seized all of his electronic storage media, which included his Apple MacBook Pro, Apple iPhone 5S, an external hard drive and a flash drive.

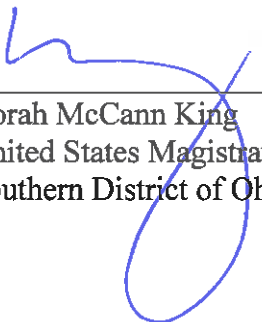
12. SZE was home at the time the search warrant was executed and agreed to be interviewed by law enforcement. SZE admitted to having sexual contact with the specific child referenced above on approximately 15 occasions. SZE further admitted that he gave the child his mobile phone and instructed the child to digitally record him/herself masturbating at SZE's residence in Lewis Center during Spring of 2015. SZE stated that the iPhone 5S investigators seized is the same phone he gave to the child to use to record the masturbation. SZE also admitted to engaging in inappropriate sexually-oriented electronic communications with other students.

13. HSI Investigators in Seattle conducted a forensic analysis of all of the electronic storage media seized from SZE's residence. This examination revealed that the flash drive contained a three minute and eight second sexually explicit video. Investigators who viewed the video described it to your affiant as depicting a minor child sitting on a toilet in a bathroom with his/her pants down. The focus of the video was on the child's genitalia, as the child masturbated for approximately three minutes. Forensic information from the video indicated that it was created on March 11, 2015, which is during the spring 2015 timeframe that SZE and the child both indicated that SZE had directed the child to record the masturbation videos. The bathroom in the video contains the same blue walls, wall molding/paneling and flooring as seen in the pictures associated with SZE's former Lewis Center residence. The latitude and longitude found in the metadata (digital identifiers) of the video shows the video was created at SZE's former Lewis Center residence, which is located in the Southern District of Ohio. The flash drive from which the video was recovered was an 8GB Lexar drive that contains a "Product of China" imprint.

14. Based upon the foregoing information, your affiant submits that there is probable cause to believe Brian M. SZE has committed violations of Title 18 USC § 2251(a), the Production of Child Pornography in the Southern District of Ohio. Therefore, your affiant respectfully requests that this court issue a criminal complaint and arrest warrant.

  
Justin B. Myers  
Special Agent  
U.S. Homeland Security Investigations

Sworn to and subscribed before me this 1st day of October, 2015.

  
Norah McCann King  
United States Magistrate Judge  
Southern District of Ohio